



C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment.

March 4, 2009

MEMORANDUM

TO: Administrators, Nursing Homes

FROM: Dennis Gibbs, Director
Division of Health Licensing

SUBJECT: Provider-Wide Exception – Criminal Background Check

§ 601.B. of Regulation 61-17, *Standards for Licensing Nursing Homes* requires that,

“Staff members of the facility shall not have a prior conviction or plead no contest (nolo contendere) for child abuse, neglect, or mistreatment, or any other felony.”

§ 16-1-20(A) of the South Carolina Code of Laws lists degrees of felonies into six classes from A through F. Classes A, B, C, and D include, but are not limited to, such felonies as murder and burglary (first degree); attempted armed robbery; sexual exploitation of a minor; assault on a vulnerable adult; and abusing or neglecting a vulnerable adult that results in great bodily injury.

Recognizing the differences in the degrees of seriousness from one class of felony to another, and in the interest of establishing reasonable standards that can be met by providers and yet do not compromise the health and well-being of the residents of nursing homes, it has been determined that such felonies as referred to in § 601.B. shall apply to classes A, B, C, and D as identified in §16-1-10 (A) of the South Carolina Code of Laws, and felonies in Classes E and F that are related to: (1) felonies involving criminal sexual conduct; (2) felonies involving the physical or sexual abuse of children, the elderly, or the infirm including, but not limited to, criminal sexual misconduct with a child, making or distributing child pornography or using a child in a sexual display, incest involving a child, assault on a vulnerable adult; and (3) a crime in which the victim is a patient or resident of a health care facility, including abuse, neglect, theft from, or financial exploitation of a person entrusted to the care and protection of the facility. A complete list of the classification of felonies A through F can be obtained online at <http://www.scstatehouse.gov/code/t16c001.htm>

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As authorized in R61-17, § 203., the Department may grant exceptions to licensing standards when appropriate. Where unusual circumstances exist, a facility may request an exception when it wishes to retain or hire an individual who does not meet the requirements of R61-17, § 601.B., or the provider-wide exception outlined above. The approved exception request form may be downloaded at: <http://www.scdhec.net/administration/library/D-0226.pdf>. After review, the Department will make a determination whether or not the exception will be granted.

This exception applies to all nursing homes licensed by the Department, and relates solely to SC licensing standards. Any adverse condition(s) found related to this exception may result in revocation by the Department of this exception for individual facilities.

If there are any questions regarding the above, please call Randy Clark at (803) 545-4230.

DLG/shh

cc: Pam Dukes, DHEC
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